

# **EXHIBIT E**

Jcudgrih

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

19-MAG-10987

5 VIRGIL GRIFFITH,

6 Defendant.

7 -----x

8  
9 December 30, 2019  
11:16 a.m.

10 Before:

11 HON. VERNON S. BRODERICK,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
Southern District of New York

17 BY: MICHAEL KROUSE

Assistant United States Attorney

18 BAKER MARQUART, LLP

Attorneys for Defendant

19 BY: BRIAN E. KLEIN

- and -

20 KOBRE & KIM LLP

21 BY: SEAN BUCKLEY

- also present -

22 MOHAMMED AHMED, U.S. Pretrial Services

23 S.A. Brandon Cavanaugh, Federal Bureau of Investigation.

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1 THE CLERK: United States v. Virgil Griffith.

2 Counsel, please state your appearances for the record.

3 MR. KROUSE: Good morning, your Honor. Michael Krouse  
4 for the United States. With me at counsel table is Special  
5 Agent Brandon Cavanaugh from the FBI.

6 THE COURT: OK. Good morning.

7 MR. KLEIN: Good morning, your Honor. Brian Klein  
8 from Baker Marquart. With us is Virgil Griffith, who is in  
9 custody.

10 MR. BUCKLEY: And sean Buckley, from Kobre & Kim, on  
11 behalf of Mr. Griffith as well.

12 THE COURT: Good morning. You may be seated.

13 MR. BUCKLEY: Good morning, your Honor.

14 THE COURT: So we are here today for a bail appeal  
15 relating to an order that Mr. Griffith be detained by  
16 Magistrate Judge Moses.

17 I thank counsel for your timely and quick response to  
18 my order of last night. I will take care of unsealing this  
19 matter. As I understand it, it should have been -- there may  
20 have been some administrative issue. That is the reason why it  
21 hadn't been unsealed already. So, we'll do that so eventually  
22 my order and as well as the other materials will be available  
23 on the court's docket.

24 So I have reviewed -- I can't say I have read cover to  
25 cover everything that has been provided to me, but let me --

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1 and I think the government has provided answers to each of the  
2 questions. And what I would say in connection with -- let me  
3 just -- I apologize. Let me just review everything that I  
4 actually have.

5 I have the government's letter of December 30th, with  
6 attachments. I have the defense letter of December 29th. I  
7 have the statements of Mr. Griffith from the -- excuse me, the  
8 reports, the FBI 302s of Mr. Griffith's statement to  
9 authorities in May 2019 and November of 2019. I have the  
10 complaint; the two transcripts, one from the Northern District  
11 of California, one from here. I have the Pretrial Services'  
12 reports from both the Northern District of California and here,  
13 and then I have a copy of my order.

14 Are there any other documents I should have in  
15 connection with today's argument?

16 MR. KROUSE: No, your Honor.

17 MR. KLEIN: Not from the defense, your Honor.

18 THE COURT: OK. Fantastic.

19 So in connection with the defense's -- and let me ask,  
20 has -- although I know I received the 302s, I take it the  
21 defense counsel has not received them?

22 MR. KLEIN: No, your Honor. We repeatedly requested  
23 them and have not been provided with them.

24 THE COURT: OK.

25 MR. KROUSE: That is correct, your Honor.

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1           THE COURT: All right. So in connection with that, I  
2 mean, I would say the following. I imagine that in due course  
3 the government will make discovery available. In making  
4 whatever ruling I make, I'm not going to rely on anything in  
5 the report that is not contained in the complaint. And to the  
6 extent that I find that there is something that is in  
7 Mr. Griffith's favor, Dr. Griffith's favor, in connection with  
8 the report, I'll consider that, since it is something that was  
9 in the government's knowledge at the time of the arrest and the  
10 various arguments that have been made.

11           So I don't know -- or obviously it is the government's  
12 burden to show. There is already an order in place in  
13 connection that the defendant be detained. So I guess I will  
14 hear from the defense first and then I will hear from the  
15 government.

16           MR. KLEIN: Sure, your Honor.

17           Your Honor, we believe Mr. Griffith should be released  
18 promptly. We believe there are reasonable conditions that can  
19 be imposed, that he will make all his appearances in court. He  
20 plans to fight this case. We want to be able to work with him,  
21 work through the discovery, prepare his defenses. And I want  
22 to -- we submitted a letter that goes into great detail. I  
23 wanted to look at some of your questions, your Honor, if you  
24 don't mind.

25           THE COURT: Sure.

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1 MR. KLEIN: Because I think they speak to things that  
2 help elucidate why Mr. Griffith should be released.

3 So, number two is, "If granted bail, will Defendant  
4 Griffith be able to live in the Southern District of New York?"  
5 Your Honor, in our submission last night, we noted in a  
6 footnote that he could live here. There is a friend who would  
7 let him live in his house. We have confirmed that. So he  
8 could reside here.

9 We don't think that is necessary. Both pretrial  
10 reports recommend that he live with his parents. His father is  
11 here today, your Honor. His mother had to return to  
12 Tuscaloosa.

13 Just so you know a little bit more about his parents,  
14 both his parents are doctors. They are law-abiding citizens.  
15 His mom is a retired radiologist. His dad is a dermatologist  
16 who has the second largest dermatology association in north  
17 Alabama. These are well-respected, well-rounded members of the  
18 community. They are willing to put their son in their house.  
19 So I think he should reside in Tuscaloosa with his family and  
20 that would be appropriate.

21 Going to your --

22 THE COURT: Mr. Klein, let me ask you this.  
23 Regardless of whether he is here in the Southern District or in  
24 Alabama, do you know whether or not he would either  
25 logistically continue to be able to work or whether -- well,

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1 why don't we start with logistically whether he would be able  
2 to continue to work?

3 MR. KLEIN: His job at the Ethereum Foundation, your  
4 Honor, he has been suspended. He is not working there now  
5 while he is dealing with this matter. He is not working there.

6 THE COURT: All right.

7 MR. KLEIN: So, you know, if he is released, we could  
8 go back to his employer and see if they would let him work  
9 remotely from Alabama, but at present he was detained, he was  
10 arrested, but we are willing to do that. They have been very I  
11 would say supportive of him throughout this, although the  
12 issues here are totally unrelated to his work there. I want to  
13 make that very clear.

14 So going to the other point about question three,  
15 about him being in Alabama, your Honor, I represent a lot of  
16 people around the country. I represent people in this district  
17 who have to travel. I actually have a case in the Southern  
18 District right now involving cryptocurrency. It is U.S. v.  
19 Sharma, et al., 18-340. It's in front of Judge Schofield. My  
20 client in that case, Robert Farkas, is accused of -- I would  
21 say potentially faces much more prison time than here. He is  
22 in the Southern District of Florida, in Miami. He wears an  
23 electronic monitoring bracelet. He flies up here. He has made  
24 all of his appearances and has been in good compliance.

25 There is nothing unusual about a defendant being in a

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1 different district.

2 THE COURT: I think the government -- I think, and let  
3 me confirm this -- I think the government concedes that they  
4 are unaware of any sort of differences. I think their point  
5 was he couldn't be monitored in this district if he's somewhere  
6 else. But let me just -- Mr. Krouse, is that accurate?

7 MR. KROUSE: Yes, your Honor, that is accurate. We're  
8 not aware of any impediment for having Mr. Griffith supervised  
9 in Alabama.

10 THE COURT: Yes.

11 MR. KROUSE: We do note in our letter that that does  
12 increase the possible risk of flight, namely, his need to  
13 travel here for court appearances by presumably flying and  
14 possibly at that point using that opportunity to fly elsewhere.

15 THE COURT: OK.

16 MR. KLEIN: Your Honor.

17 THE COURT: Yes.

18 MR. KLEIN: I had a client similarly situated who was  
19 in LA and it was out of the Eastern District of Wisconsin, and  
20 my understanding is the electronic monitoring equipment in most  
21 parts of the country you can actually fly with. So you  
22 actually fly with your ankle bracelet on you. So, he could be  
23 monitored. And I am aware that in other cases I have had  
24 Pretrial will escort the person to the airport and make sure  
25 they get on the flight. They bring actually a copy of their



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1 itinerary often with them as well as the docket, because, of  
2 course, when you go through security, if you are wearing an  
3 ankle bracelet, it is metal and they are going to stop you.

4 He would not have his passport, your Honor, to be very  
5 clear. Pretrial has his passport. We thought it would be  
6 transported here by now. We were provided his passport card,  
7 which is different. It is his only form of ID. Mr. Buckley  
8 has it with him. He would need ID to travel. But, you know, I  
9 don't think there is any significant greater risk of flight  
10 from Alabama coming here, which -- and it does happen, your  
11 Honor, so --

12 THE COURT: What is the closest -- and maybe  
13 Dr. Griffith -- the other Dr. Griffith might be able to  
14 elucidate, what is the closest international airport? Does  
15 Tuscaloosa have an international airport, Doctor?

16 DR. GRIFFITH: Tuscaloosa does not have an  
17 international airport. Perhaps Birmingham or possibly Atlanta.

18 THE COURT: OK. How far away is Birmingham and/or  
19 Atlanta from where you live?

20 DR. GRIFFITH: Birmingham is roughly 60 miles, and  
21 Atlanta is roughly 150 to 180.

22 THE COURT: OK. Thank you.

23 I'm sorry, Mr. Klein. Go ahead.

24 MR. KLEIN: No. I didn't know the geography of  
25 Alabama either, so that was helpful to me, too.

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1           So, I think Pretrial, who also, I would just note, has  
2       recommended these release conditions. So they are the ones who  
3       are saying release him, and obviously they feel capable of  
4       monitoring him. They don't think he is a flight risk if he is  
5       in Tuscaloosa, and we would agree with Pretrial on that point.

6           THE COURT: There are several points, actually, that I  
7       want to make, and some of it relates -- well, some of it  
8       relates to the government's case, some of it relates to some of  
9       the alleged activities of Mr. Griffith. Something I want to  
10      emphasize regardless of where I come out, and, Mr. Griffith,  
11      I'm speaking directly to you:

12           Laws in this country are not suggestions. I  
13      understand from what I've read that you may have thought that  
14      it -- well, you didn't think you would end up here, and you may  
15      have thought that, at most, your passport would be revoked.  
16      And the government has at its disposal a wide range of things  
17      they could have done, including where we are today. And one of  
18      the problems, quite frankly -- and, look, I don't know, you  
19      know, from some of the comments that were made, the underlying  
20      conduct, money laundering, is illegal. Assisting foreign  
21      governments -- and, again, I'm just saying from what has been  
22      alleged. Assisting foreign governments to conduct that money  
23      laundering is illegal. In particular, it is something that  
24      I'll point out.

25           And I am not saying -- and there is no information

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1 that you were in fact doing this. But it was suggested, one of  
2 the things, that you could assist with money laundering  
3 relating to, let's say, narcotics. And I'm not saying it would  
4 be -- you would provide the necessarily the means, in other  
5 words the blockchain, or whatever it may be, the technology for  
6 folks to utilize Bitcoin in order to carry that out, but that  
7 is illegal, and, as you know, there have been other defendants  
8 who have run afoul of things like that. And I am not saying  
9 you would do that.

10 But I want to emphasize that the laws aren't  
11 suggestions.

12 And one other thing. I've never been in North Korea,  
13 but what I know about North Korea is one thing I know, that you  
14 wouldn't be having a bond hearing. All right? That wouldn't  
15 happen. What I also know is that I know, from some of your  
16 statements, that you may have felt that because of your  
17 knowledge and because of the desire of others to perhaps get  
18 information, that it would be OK. I think that that is  
19 somewhat naive, you know, because there are things that happen  
20 in that country, and I think the media has reported on some, to  
21 United States citizens that have no -- it is not necessarily  
22 logical. Let me just -- I'll stop there.

23 But I wanted to make those points because I can't  
24 emphasize enough that, you know, that part of the concern I  
25 have is just that, some of the things that are more on the

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1 periphery than necessarily specifically in the charges.

2 Go ahead, Mr. Klein.

3 MR. KLEIN: Yes, your Honor. Just so it's totally  
4 clear, he is not accused of money laundering and sanctions  
5 violation.

6 THE COURT: Yes.

7 MR. KLEIN: But I would add to that, your Honor, and  
8 just as a point, you know, we don't dispute that he went to  
9 North Korea, just to be very clear. Neither does Mr. Griffith.

10 THE COURT: Yes.

11 MR. KLEIN: But I think what the point is we emphasize  
12 in our letter is that when he knew he was under investigation,  
13 he stayed here at the request of the FBI, and that I think  
14 really demonstrates his ability to respect law enforcement and  
15 to be respectful of your Honor's orders if you release him, and  
16 I think that is one of the most compelling facts here.

17 He could have gone home and worked. He had a  
18 legitimate reason to go back to Singapore, which has an  
19 extradition treaty, even, but he stayed here. He listened to  
20 the FBI. He was compliant. His attorney was engaged with the  
21 government, provided his itinerary. So I think those are all  
22 very -- and he authorized his attorney to do that. So I think  
23 these are all very compelling facts.

24 But turning to the point, your Honor, going back to  
25 your questions, question number four I believe I answered when

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1 I answered question number three. A bunch of the other  
2 questions, your Honor, are really directed to the government,  
3 and they answered them in their letter.

4 THE COURT: Yes.

5 MR. KLEIN: So I would note a couple of things, your  
6 Honor. You know, my client can be verbose and can say things  
7 that are provocative. It doesn't mean that they are  
8 necessarily meant to be taken seriously, and I think your Honor  
9 zeroed in on that a little bit with your questioning and asking  
10 the government to respond and provide information about  
11 statements that were made. And if we just talk about -- I  
12 don't know if you want to talk about those statements now, if  
13 they were of particular concern to you, but I do think that  
14 they were not -- particularly the ones with his parents were  
15 not taken seriously. What I would like to do, though, is  
16 address a few of the points they raise in their letter, the  
17 government's letter from last night.

18 THE COURT: OK.

19 MR. KLEIN: So I think I would like to start off by  
20 talking about a few of the things they talk about, this other  
21 cryptocurrency, SpankChain, which has an unusual name -- I  
22 never thought I would say that in court -- and the Dark Web  
23 parts. I don't know if that concerns your Honor. I can  
24 explain those things. I am happy to explain those to your  
25 Honor.

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1 THE COURT: I would like to hear about that because it  
2 is something obviously that I don't think was before -- I mean,  
3 there may have been some reference to it before Judge Moses but  
4 I don't think there was that level of specificity.

5 MR. KLEIN: Yes, your Honor.

6 So my client helped develop what is essentially a  
7 Google for the Dark Web, and so that's a portion of the  
8 Internet that's sort of disconnected from the rest of the  
9 Internet. I don't know how familiar you are with the Dark Web,  
10 and I am not a technical expert so I don't really want to be  
11 the one to explain it to you. But I will say it is essential  
12 like Google. He developed it with an individual named Aaron  
13 Schwartz, who actually unfortunately committed suicide during a  
14 prosecution unrelated to anything about this, a few years ago  
15 and was a close friend of our client's. My client is a serious  
16 Ph.D. and serious researcher. He actually had written a paper  
17 about the Dark Web, and I wanted to offer it up just so you  
18 could understand there is actually strong academic interest in  
19 this.

20 Would you mind if I approach, your Honor?

21 THE COURT: No. Please, go ahead.

22 Do you have a copy for the government?

23 MR. KLEIN: I do have a copy for the government, your  
24 Honor.

25 (Hanging)

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1 THE COURT: Thanks.

2 MR. KLEIN: So I'll give your Honor a moment just to  
3 look at the cover.

4 (Pause)

5 He wrote that while he was at MIT at an outpost in  
6 Singapore, your Honor, just so you know, and he moved to  
7 Singapore for professional reasons.

8 So, he obviously is a very serious academic, very  
9 credentialed, incredibly smart, Ph.D. from Caltech. It is the  
10 number one university in the world on some lists.

11 So going to this browser for the Dark Web, your Honor,  
12 he actually doesn't control it anymore, and he was kicked out  
13 of the Tor project because he actually helped educate law  
14 enforcement about it and he was telling them how they could use  
15 it. He went and spoke with Interpol about this until he was  
16 ultimately kicked out of the Tor project for that.

17 So even there, your Honor, there is a strong academic  
18 interest, plus he's no longer involved essentially because he  
19 was educating law enforcement. He doesn't operate it anymore.  
20 I believe the Hermes Center for Transparency and Digital Human  
21 Rights operates it.

22 Just so you know a little bit more about the Dark Web,  
23 your Honor, the Dark Web, like VPNs -- I don't know if your  
24 Honor knows what a VPN is.

25 THE COURT: I think that is the way I access when I am

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1 at home my --

2 MR. KLEIN: Yes. A lot of times the government puts  
3 it in an indictment with people accused of hacking crimes, too,  
4 your Honor. They put it in as something nefarious, but  
5 businesses use VPNs, law enforcement uses them. The Dark Web  
6 often is used for similar purposes.

7 THE COURT: Well --

8 MR. KLEIN: So there are --

9 THE COURT: But wait. When you are saying that there  
10 are legitimate businesses that use the Dark Web --

11 MR. KLEIN: There are legitimate reasons to use the  
12 Dark Web, absolutely, your Honor. There are dissident groups  
13 that use the Dark Web. I pulled an article last night talking  
14 about this, or the other day. Facebook has over 1 million  
15 people who access it through the Dark Web because they can't  
16 access Facebook from their country. So there are very  
17 legitimate uses. Now, are they all legitimate on the Dark Web?  
18 We are not going to say that.

19 THE COURT: I hazard a guess -- because I just read  
20 the first, the abstract of Mr. Griffith's paper from MIT.

21 MR. KLEIN: Yep.

22 THE COURT: And the idea that it was a misnomer that  
23 it is the Web because basically people focus in one particular  
24 area, and some of that I think has to do with whatever interest  
25 or whatever dealings the people are doing, some of which are --



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1 and, again, I'm not saying all but some of which are nefarious.  
2 So I understand what you are saying, that there are reasons to  
3 utilize it, and I'm not saying that -- in fact, as far as I  
4 know, there was nothing illegal about what Mr. Griffith did in  
5 connection with it.

6 MR. KLEIN: There isn't, your Honor. And just to be  
7 clear, the takeaway that I wanted your Honor to have were he  
8 had an academic interest. He educated law enforcement about  
9 it. He no longer controls that. And so I don't think it is  
10 really an issue here, and I don't think it has any indication  
11 that he is a risk of flight because of it.

12 Turning to SpankChain, your Honor. That is a  
13 blockchain/cryptocurrency that was developed for people who  
14 want to purchase porn. Like Canada's porn, often people don't  
15 want to use their credit card or their bank account. It is a  
16 U.S.-based company. So this is not foreign unknown entity; it  
17 is U.S.-based. It is based in California. They have been  
18 trying to develop a cryptocurrency for porn purchases, which is  
19 also illegal -- which is also legal.

20 So I think, again, that does not indicate anything  
21 other than he is involved in various activities. Do his  
22 interests lean towards the direction of cryptocurrency and the  
23 Web? Yes, that's his interest. That's his longtime interest.  
24 But none of that is illegal, and none of the enterprises that  
25 he is involved in that they reference are illegal.

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1           So I would like to turn to page 6 of the government's  
2     letter. One of the questions for the defense, your Honor, was  
3     about Mr. Griffith's sources of funds. On that page there is  
4     an extract -- alleged extract from I believe Mr. Griffith's  
5     phone that the government inserted.

6           Now, I would focus your attention on the date and time  
7     of that. That was March 2018. Mr. Griffith has possessed  
8     ether. We don't dispute that. He disclosed it to Pretrial.  
9     He accurately made a disclosure to Pretrial. The context that  
10    I would add to this, your Honor, which I think is very  
11    important, is that in talking about the amount of money he had  
12    in ether at the time, in March 2018 the price of ether was  
13    approximately \$850. Today it is approximately \$130. So it's  
14    dropped dramatically. At the time, his ether was worth  
15    approximately a million dollars. We don't dispute that. But  
16    today it's not worth that amount. It's worth the amounts that  
17    have been disclosed to Pretrial.

18          He did make an investment in a crypto hedge fund at  
19    that time. It wasn't -- it does not mean exactly \$200,000. It  
20    was less. He sold it. He declared it on his taxes. And he  
21    moved the remainder of the funds to his coin-based account,  
22    which was disclosed to Pretrial.

23          So just to track that, your Honor, at one point he had  
24    a lot of money in ether. He did put some in this crypto hedge  
25    fund. He sold that. He moved those funds to his coin-based

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1 account, which has been disclosed to Pretrial and is accounted  
2 for both in the government's letter and in the Pretrial report.  
3 So I just wanted -- and it was declared on his taxes.

4 I don't know if you have any further questions about  
5 that point, your Honor.

6 THE COURT: I don't.

7 MR. KLEIN: Moving on, your Honor, to page 7. I  
8 already discussed some of his blockchain activities. There is  
9 an outtake here is about him allegedly wanting to mediate  
10 economic relations between North Korea and South Korea. You  
11 know, I don't think that has anything to indicate that he might  
12 be a flight risk. That goes to the charges we're facing and  
13 the merits that we're obviously not addressing here today. I  
14 will say though that we do have defenses, your Honor. We're  
15 working actively on those. And we dispute the government's  
16 complaint and allegations. And so I just want to make that  
17 very clear. And so they say they have a strong case; we think  
18 we have a strong defense. To the extent it might be relevant  
19 to your Honor, we've prepared some things in camera to indicate  
20 areas that we will raise as a defense, including we believe  
21 evidence that directly undercuts their case.

22 But, again, I don't think this extract on page 7 that  
23 they quote has anything to do with flight risk. In fact, it  
24 goes to peace. I believe his talk in North Korea was entitled  
25 Blockchain and Peace. So to the extent, taking this as even

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1 true, it seems likes he, whether we think it was a wise idea  
2 here in this courtroom or anyone else does to try to mediate  
3 some sort of peaceful understanding, I think that's context you  
4 could put into this.

5 If you turn to -- on this page also the government  
6 talks about, again, him being a flight risk. We've noted he  
7 doesn't have his passport. He would agree to reasonable  
8 conditions.

9 The last thing they talk about is him renouncing his  
10 citizenship. We address that in our letter, your Honor. He  
11 did not renounce it. He took no affirmative steps to renounce  
12 it. He did think about it, your Honor, but he didn't do it.  
13 He, again, no affirmative steps. And the government even  
14 notes, which I think is of note, there was discussion, they  
15 claim, of him renouncing it to go to St. Kitts, but in a later  
16 footnote they note that St. Kitts actually has an extradition  
17 treaty.

18 THE COURT: I looked that up. In fact, I actually --  
19 well, in full disclosure I guess is that I have a trip planned,  
20 perhaps later at some point, to the sister island of Nevis, or  
21 Nevis, however it is pronounced. But in any event, I looked  
22 that up because I felt that was odd.

23 But there may be a distinction between extradition for  
24 someone who is -- well, I don't know. In other words, in any  
25 event --

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1 MR. KLEIN: He didn't do it. In fact, what he did do  
2 instead, your Honor, was set up a residence in Puerto Rico,  
3 which is part of the United States. It is a territory. Right?  
4 And he has a residence there.

5 So he didn't renounce. He didn't take any steps. He  
6 didn't go to a lawyer. he didn't file paperwork. When he was  
7 under investigation, he stayed here. He does have a residence  
8 in Puerto Rico. We all know Puerto Rico, you know, there is a  
9 U.S. Attorney's Office there. That is the United States for  
10 all intents and purposes, or is the United States. So --

11 THE COURT: Does he have other connections to Puerto  
12 Rico?

13 MR. KLEIN: No, your Honor. He has a friend, I  
14 believe, who lives there.

15 THE COURT: Is there a girlfriend?

16 (Pause)

17 MR. KLEIN: He has a friend who lives there, an  
18 ex-girlfriend lived there, and he has other connections. I  
19 think he moved his business from Delaware to Puerto Rico, he  
20 has an LLC, so he does have ties to Puerto Rico, and he rents  
21 an apartment there.

22 Turning to page 9 of the government's submission from  
23 last night -- and, actually, I think 9 and 10, pages 9 and 10  
24 work together. So I would direct your attention actually to  
25 first the bottom of page 10. This is an exchange with one of

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1 his parents, an alleged exchange. Again, we haven't received  
2 discovery. We don't have necessarily the full context. We  
3 haven't seen his statements. But judging on what the  
4 government submitted, you know, at the end he says, "I  
5 regularly roll grenades into the room and someone needs to  
6 really jump on it."

7 He is a provocator, your Honor. He does say thing  
8 that might be provocative and not meant to be taken seriously  
9 but he just says things, you know, and I think that's what page  
10 9 shows us. You know, SpankChain isn't actually a  
11 pornographer, it supplies a solution for paying for  
12 pornography, but, you know, there he refers to himself as a  
13 pornographer. He is not going to become Larry Flint if he goes  
14 to SpankChain. He is going to help them build a cryptocurrency  
15 or work with them.

16 So when he says the porn important stuff isn't  
17 actually that bad, I just joined them as an advisor, you know,  
18 he's dialing back his own sort of provocative statement to his  
19 parents. I think -- I have kids. My kids say things to me to  
20 get a rise out of me. I don't know if your Honor has children,  
21 but children often say things to their parents to get a rise or  
22 a reaction. Whether it is, you know -- maybe it had been  
23 unfortunate this case, the subject matter and how he phrased  
24 them, but it doesn't mean he is a flight risk, let alone a  
25 serious one.

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1 THE COURT: OK. Let me ask, with regard to the two  
2 homes, the one in Alabama and the one in Maryland, do you have  
3 an understanding of what the equity is in those homes,  
4 approximately?

5 MR. KLEIN: Yes, your Honor. Let me just get that  
6 real quick.

7 (Pause)

8 Your Honor, Alabama is about \$835,000.

9 THE COURT: OK.

10 MR. KLEIN: And his only sister's home in Maryland is  
11 approximately \$490,000.

12 THE COURT: Is that the equity or the --

13 MR. KLEIN: Actually, that says the value, your Honor.  
14 Let me see if that's the equity.

15 THE COURT: And for the Alabama home, is that the  
16 value or the equity?

17 DR. GRIFFITH: That's value.

18 THE COURT: OK.

19 MR. KLEIN: Sorry, your Honor.

20 DR. GRIFFITH: There are no liens on the Alabama  
21 property.

22 THE COURT: OK.

23 MR. KLEIN: I don't know if his sister owns her house  
24 outright, I don't think she does, your Honor, so it probably is  
25 less.

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1 THE COURT: All right. Thank you.

2 Mr. Krouse.

3 MR. KROUSE: Thank you, your Honor.

4 Your Honor, for the reasons stated in our letter of  
5 last night, we believe that Judge Moses' detention order should  
6 be affirmed, for various reasons.

7 First, the defendant -- just at the highest level, the  
8 defendant is an extremely serious flight risk here. The  
9 defense counsel has tried to minimize the conduct, but the  
10 conduct here is extremely serious and the government's case  
11 against the defendant is very strong.

12 With respect to the text messages alone -- and these  
13 aren't the entire universe of text messages, these are just  
14 select text messages -- it is quite apparent that the defendant  
15 knew exactly what he was doing. He knew the illegal nature of  
16 the activities and he carried through with them anyway.

17 So there is a text message that the government  
18 reproduces on page 2 where Mr. Griffith's mother asks him what  
19 the North Koreans' interest is in cryptocurrency, and Griffith  
20 replied, "Probably avoiding sanctions, who knows." And that's  
21 at the top of the government's submission on page 2.

22 In another conversation, Mr. Griffith is discussing  
23 the conference with another person, and that person expresses  
24 some concern for Mr. Griffith's safety. And he responds,  
25 "North Korea wouldn't want to scare away blockchain talent that



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1 will let them get around sanctions." And in response, the  
2 individual says, "What if they're funding their drug trade and  
3 nuclear program with crypto?" And Griffith says, "Unlikely,  
4 but they'd probably like to start doing such."

5 So it is not as though Mr. Griffith was some peace  
6 ambassador for cryptocurrency and that was his only intent and  
7 the only activities he was engaging in. He was engaging in  
8 these activities knowing with his eyes wide open that North  
9 Korea was planning to use cryptocurrency and blockchain  
10 technologies for extremely nefarious means.

11 THE COURT: Let me ask you this, Mr. Krouse. Do you  
12 know, in terms of the attendees at the conference -- and,  
13 obviously, to the extent you want to disclose it -- do you know  
14 whether they were government actors at the conference? In  
15 other words, I know that there were other individuals that came  
16 that were part of Mr. Griffith's group but the actual people  
17 who were in the audience.

18 MR. KROUSE: A couple of things on that, your Honor.  
19 We do know that many of the attendees were government officials  
20 from North Korea. Also knowing how North Korea works, they  
21 don't have a private economy. They are a state-run  
22 totalitarian nation. Everyone -- an inference could be drawn  
23 therefor that everyone from North Korea who was participating  
24 in the conference and gaining the technical insights that  
25 Mr. Griffith was providing worked in some way for the North

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1 Korean government. There aren't businesses in North Korea.  
2 Everything is run by the state.

3 And the whole purpose of North Korea having  
4 conferences like this is to gain access to technologies that  
5 they wouldn't otherwise have access to to gain technical  
6 knowledge that they may not be able to get through other means  
7 and then to use those technologies to further their nation's  
8 goals, which include things like money laundering in order to  
9 gain access to hard currency, evade sanctions, include  
10 investing in nuclear capabilities, cyber war capabilities. The  
11 reason why these sanctions are in place on North Korea is  
12 exactly to prevent them from gaining access to those resources  
13 and this information, this technology. And Mr. Griffith knew  
14 that in advance, was told that he was not permitted to travel  
15 to North Korea, did so anyway, in direct contravention of that  
16 guidance. That goes directly to Mr. Griffith's risk of flight.  
17 It shows that he is not --

18 THE COURT: Let's take a step back.

19 In terms of the current charges, what are the  
20 guideline ranges for the current charges?

21 MR. KROUSE: Your Honor, we had done a preliminary  
22 guideline range. It is somewhere in the range of 14 to 20  
23 months, I believe. So --

24 THE COURT: And does the government have any current  
25 plans to add charges that would increase that guideline range?

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1 MR. KROUSE: It's very possible, your Honor. As you  
2 know, the government's investigation is ongoing, and we are  
3 extracting information from the phones, etc., that will  
4 possibly lead to further charges.

5 THE COURT: OK. But I guess the question is do you  
6 have a current -- anything is possible, Mr. Krouse, as you  
7 know. So what I'm trying to gauge, because part of the  
8 risk-of-flight analysis at least that I am considering is how  
9 much time -- how much exposure Mr. Griffith is facing. So,  
10 that's what I'm trying to assess here.

11 So it sounds like you can't say right now  
12 definitively. The government is continuing its investigation,  
13 and there may or may not be additional charges.

14 MR. KROUSE: That is correct, your Honor. And to be  
15 clear, the case is not even indicted yet. The only question  
16 here is whether the government has established by a  
17 preponderance of the evidence that the defendant poses a flight  
18 risk and we think we have.

19 Well, with respect to the exposure that he faces, even  
20 though the guidelines' range isn't tremendously high, it does  
21 call for jail time. And Mr. Griffith, in combination with all  
22 of the other factors, the government believes the prospects of  
23 jail time, the prospect of being convicted of this very serious  
24 charge, the prospect -- and looking at the government's  
25 strength of its case, there would be a strong incentive for him

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1 to flee, especially in light of the fact that even before he  
2 was charged here, Mr. Griffith had expressed interest in and  
3 explored the possibility of renouncing his citizenship. He  
4 does not have significant ties to the United States. He  
5 doesn't live here. He lives --

6 THE COURT: The parents would probably beg to differ.

7 MR. KROUSE: The parents can travel to visit him.

8 He himself does not maintain ties to the United  
9 States. He was going to renounce his citizenship. He was not  
10 living here, he was living abroad. He doesn't have a job here.

11 So in the calculus of the flight risk, which the Court  
12 is looking at, the lack of significant ties to the United  
13 States, the fact that the government's case is extremely  
14 strong, and the fact that a conviction on this charge would  
15 carry jail time, the fact that notwithstanding defense  
16 counsel's arguments, it's still extremely unclear what  
17 Mr. Griffith's financial resources are. Most of those  
18 financial resources are held in a manner that's difficult to  
19 trace, that's difficult to fully know. There are text message  
20 indications that Mr. Griffith is far wealthier than he's  
21 claiming today. He could use those funds to effectuate a plan  
22 to flee the United States and live abroad.

23 The St. Kitts and Nevis passports issue, it's known  
24 that St. Kitts provides citizenship to individuals who make  
25 investments in their country. And even if St. Kitts has an

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1 extradition treaty with the United States, the point is that  
2 Mr. Griffith would be able to obtain a St. Kitts' passport  
3 which he could then use to travel to other countries that do  
4 not have an extradition treaty with the United States, and he's  
5 smart enough to do that.

6 The fact that he --

7 THE COURT: Do you know, in connection with that, does  
8 he actually need to present his passport, in other words, to  
9 the authorities in St. Kitts or in Nevis?

10 MR. KROUSE: I don't believe so, your Honor. I think  
11 it is purely a transactional passport. You put money in and  
12 then you get a St. Kitts passport, no questions asked.

13 Similarly, Mr. Griffith's familiarity with the Dark  
14 Web is extremely significant. The fact that he's the developer  
15 of a tool used to navigate the Dark Web obviously shows that he  
16 is very familiar with it. Defense counsel made the point that  
17 the Dark Web can be used for legitimate purposes. That's  
18 assuredly true, like any tool can be used for legitimate  
19 purposes, but primarily the Dark Web is use for illicit  
20 purposes, to include purchasing false identifications; that's  
21 certainly something someone can do over the Dark Web.

22 Mr. Griffith would be able to, if released, access the Dark Web  
23 and obtain travel documents in order to flee the prosecution.  
24 That in the government's view shows that simply asking him to  
25 give up his passport would not be sufficient protection against

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1 him fleeing the jurisdiction.

2 Also, your Honor, the electronic monitoring that the  
3 defense is relying heavily on is obviously not foolproof. Your  
4 Honor is well aware that in the last three years at least ten  
5 individuals have fled on bail by cutting their electronic  
6 bracelet and disappearing even though they had electronic  
7 monitoring and they had given up their passports. So this is  
8 not some theoretical concern.

9 Mr. Griffith, for all the reasons that we've laid out,  
10 his lack of significant ties to the United States, his  
11 unexplained or unknown financial resources poses such a risk,  
12 and there are no conditions that can reasonably assure that he  
13 won't flee the jurisdiction if he is released on bail.

14 THE COURT: OK. All right. Thank you.

15 Yes. Mr. Klein, would you like to speak to what the  
16 government said?

17 MR. KLEIN: Very briefly, your Honor.

18 THE COURT: Yes.

19 MR. KLEIN: This is a high-profile case. He's been  
20 all over the media. If he flees, he's going to lose his job.  
21 You know, they are going to fire him if he flees, just to be  
22 clear. So he said his job located abroad, but if he flees, he  
23 losses that job.

24 He doesn't have significant resources there. What's  
25 disclosed to Pretrial is I think approximately \$250,000, your

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Honor.

His parents and his sister, if the way your Honor is leaning is any indication -- or might lead, I don't want to presume anything -- would lose their homes. These are his -- they have a very tight-knit loving family. So he would be throwing away his job, the rest of his life, his parents' homes, plus any future he might have, and looking at significantly more time than he is now, which is relatively low, if he chose to flee.

THE COURT: And with regard to the accounts, putting aside the hard currency accounts or savings accounts that Mr. Griffith has, the cryptocurrency accounts or wallets, do you have a sense of how many of those there are?

MR. KLEIN: Your Honor, we actually -- the government did raise this concern with us when we initially asked if there were any bail conditions, and we mentioned that there might be wallets back in his residence in Singapore. And we were told that if went to his apartment, that could be obstructing justice, just so you know. So I don't have -- not that we have held back because we don't think it would be obstructing justice, but we're not exactly sure what's there but what he disclosed is accurate. We're not sure what is there. But, I mean, what he disclosed on the Pretrial report is a coin-based account, a Singapore account, and he has cold wallets, which are basically like drives you would take and not attached to

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1 the Internet that I believe are located in his residence, but I  
2 believe that is under a hundred-thousand dollars. He would  
3 have to get back into Singapore from here. There is no way the  
4 Singapore authorities are going to let him into Singapore.

5 And I want to address a couple of points.

6 THE COURT: In other words, your point is that he  
7 can't access that?

8 MR. KLEIN: He can't access that, your Honor, as far  
9 as I know.

10 And, your Honor, the Tuscaloosa -- this idea that he  
11 is going to go and get a St. Kitts passport, first of all, pure  
12 speculation about how you get one. My understanding is you  
13 have to go to a St. Kitts embassy with your current passport.  
14 If he is in Tuscaloosa, I can guarantee -- I haven't looked it  
15 up -- there is no St. Kitts embassy there. Now, there is one  
16 here, I am sure. But I don't think that is realistic.

17 The government also brought up he was going to  
18 renounce. He engaged in some potentially limited discussions.  
19 He didn't do it. Instead, he got a residence in Puerto Rico,  
20 which is part of the United States. So I think that's  
21 misleading also.

22 Overall, I think if you look at the record here, the  
23 low guidelines, his strong ties to the United States, his  
24 cooperation with law enforcement throughout this investigation,  
25 including remaining here in this country at their direction and



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1 not leave and providing them with information, shows that he is  
2 a strong candidate for bail and should be out and that he will  
3 comply with your Honor's orders and make all his court  
4 appearances. And I assure you he wants to clear his name, and  
5 we have a lot of evidence that we believe we are gathering to  
6 support him. And we dispute strongly the government's idea  
7 that they have a strong case about this. And so we're not  
8 engaged in a merits hearing, but I just want you to know we  
9 feel very strongly about that, your Honor.

10 THE COURT: OK. All right. Thank you.

11 Yes, Mr. Krouse.

12 MR. KROUSE: And, Judge, just to correct one thing I  
13 had previously said. The guidelines' range, the initial  
14 calculation is 15 to 21 months, which is not extremely low by  
15 the standards of this district.

16 I will also note that Mr. Griffith does have a  
17 girlfriend in Singapore. So the notion that he does not have  
18 ability to access his funds in Singapore we think is belied by  
19 that in part and belied also by the fact that if he was able to  
20 obtain false identification, he would be able to travel on that  
21 false identification to Singapore in order to access his funds.

22 THE COURT: OK. Well, I understand Magistrate Judge  
23 Moses' concerns, however, there are several factors I think  
24 that militate in the favor of granting a significant bond here.

25 Number one, you know, Mr. Griffith reported himself to

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1 the State Department when he returned that he in fact took this  
2 trip. I don't know exactly what the details of that were. And  
3 he voluntarily met with law enforcement on two occasions and  
4 was in the process of arranging a third meeting, apparently,  
5 through counsel at the time.

6 And so it is a combination, I think, of -- and I don't  
7 know how, I won't characterize it. But on the other side, you  
8 have the statements that he makes in some of these texts that  
9 are extremely concerning, but I think that they can be -- in  
10 terms of his flight, my sense is that a bond secured by his  
11 parents' home and his sister's home, strict Pretrial  
12 supervision. And the bond will be -- I know they said 800,000,  
13 but I want to make it a \$1 million bond cosigned by the  
14 defendant's father, his sister, and his mother. I don't know  
15 whether -- and as well as secured by the homes, strict Pretrial  
16 supervision, electronic monitoring, limited access to -- well,  
17 I guess what I would ask the parties to meet and confer about  
18 is whether there is an ability in some cases -- in one case I  
19 had, there was actual monitoring. In other words, to the  
20 extent that a defendant utilized a computer, he was actually  
21 monitored realtime by the government, or whatever limitations  
22 there would be on computer access that would make sense.

23 I would like the parties to meet and confer about the  
24 wallets that are in Singapore and the other cryptocurrency  
25 accounts that Mr. Griffith has and come to some sort of

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1 agreement on how to secure those so that Mr. Griffith cannot  
2 have access to them either through the Internet or through  
3 physically getting the hard drives and the like, and I hope  
4 that would alleviate any issue about tampering and the like.  
5 If need be, with regard to certain ones that are accessible  
6 through the Internet but that need a key, or some other thing,  
7 that Mr. Griffith should comply with providing that, and, if  
8 need, be that can be held in escrow by his counsel.

9 I think that it does make sense that the conditions  
10 get met prior to Mr. Griffith's release. I would encourage the  
11 government to, with regard to the properties, to do -- well, to  
12 avoid an issue that happened to me in another case where there  
13 were properties that were posted and in the end what ended up  
14 happening was -- and I'm not saying anything, Dr. Griffith,  
15 about your properties, but what ended up happening was that  
16 there were so many tax liens on the property that when they  
17 went -- because the defendant fled and actually is currently a  
18 fugitive, and when he fled and the bond was revoked, there was  
19 no equity in the houses. So it was of limited value to  
20 actually keep the defendant in this country, and,  
21 unfortunately, that's something that I don't think -- it didn't  
22 seem that the government became aware of or I became aware of  
23 until after the fact.

24 So, do the appraisals, do whatever the standard is  
25 now, Mr. Krouse, to make sure, with regard to the properties,

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1 that they are adequately securing the bond.

2 Travel will be limited -- well, I think, on balance,  
3 while Mr. Griffith could live here in New York, I haven't heard  
4 compelling arguments that New York would necessarily be better  
5 than Alabama. What I do believe is that the more sway that his  
6 parents will have over him in Alabama will be stronger if he is  
7 there, as opposed to if he's here in New York. So, you know, I  
8 think that allowing him to live with his parents, as opposed to  
9 living with right now a friend here whose welcome he may or may  
10 not -- depending on how long the case is, that could be a  
11 significant amount of time, and I foresee that there may be  
12 issues with regard to that.

13 With regard to Mr. Griffith's traveling up here for  
14 court appearances, I will leave it to the parties whether it is  
15 Pretrial -- I was actually thinking -- and, again, the defense  
16 would have to consent to this, but there would be even an agent  
17 or two from the FBI down there to basically make sure that he  
18 gets on the plane he is supposed to get on. I don't know what  
19 the flight situation is or isn't, but I would ask the parties  
20 to consider that and whether it could be Pretrial also that  
21 would escort him to the airport. So, Mr. Krouse, I would like  
22 you to investigate that and see what is the most feasible and  
23 what makes the most sense with regard to that.

24 MR. KROUSE: Yes, your Honor.

25 THE COURT: Let me just take a look.

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1           So the travel will be restricted to the Southern  
2       District of New York and the Northern District of Alabama.

3           MR. KLEIN: Your Honor.

4           THE COURT: Yes.

5           MR. KLEIN: I have just a few clarifications.

6           THE COURT: Yes.

7           MR. KLEIN: I am in the Central District of  
8       California. Would he be permitted to visit his law firm in the  
9       Central District of California?

10          THE COURT: I know that was included. The answer is  
11       yes, but it has to be coordinated specifically with the  
12       government. In other words, it has to be of limited duration.  
13       The government needs to know where he will be staying in  
14       California. You will provide them with an itinerary in  
15       advance.

16          MR. KROUSE: Your Honor, if I may just be heard on  
17       this, since it didn't come up in the initial argument? The  
18       government does oppose that condition. If he is to be released  
19       to the Northern District of Alabama, he should be restricted to  
20       that district and to this district, and if Mr. Klein needs to  
21       meet with him in person, he can travel to Alabama.

22          THE COURT: Mr. Klein, I understand the logistical  
23       issues that that would present, but it is -- is Mr. Buckley  
24       going to continue in this case, do you know?

25          MR. KLEIN: Yes, your Honor.

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1           THE COURT: All right. So what I would suggest is  
2 this, at least initially, and I will leave it up to you -- and  
3 I don't know when the case might be indicted, but you can  
4 revisit it at some further time if in fact Mr. Griffith has had  
5 a clean record in terms of Pretrial Services and visiting.

6           So it will be limited to this district, that district.  
7 To the extent you meet with him, you can meet with him here or  
8 down in Alabama.

9           Yes?

10          OFFICER AHMED: Your Honor, in terms of you mentioned  
11 conditions need to be fulfilled before he is released. We  
12 would ask that it just be the bond condition for a million  
13 dollars, because getting to Singapore with the logistics and  
14 getting into his apartment, that could take a long time and I  
15 don't want to delay this any longer.

16          THE COURT: I think it is the bond and the securing of  
17 the bond. I don't know what it is going to take and whether  
18 the Singaporean -- the authorities in Singapore would have to  
19 be involved in actually securing that. But what I would say is  
20 this.

21          Mr. Klein, to the extent that Mr. Griffith's  
22 girlfriend has access to his apartment, it should be made clear  
23 to her that those things are not to be touched, that, in  
24 essence -- do you know, does she live in the apartment? I  
25 don't want to pry, but what I'm saying is basically I'm setting

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1 it down right now: If anything happens to those materials  
2 between now and when you've reached an agreement, that's going  
3 to present a problem for Mr. Griffith. Obviously, nothing I  
4 can do to someone in Singapore but I certainly can do something  
5 here.

6 MR. KLEIN: Your Honor, and the other thing is  
7 regarding the access, since he is not going to be permitted to  
8 visit me immediately, I would ask that he be granted email with  
9 counsel, at a minimum, unmonitored. Because, I mean, that  
10 would pose a real problem both for Mr. Buckley and myself if we  
11 were to work on this case if we can't send him documents and  
12 exchange emails and ideas. And so I understand you want some  
13 conditions on his monitoring, we should work with the  
14 government. But I want to be very clear, it would be very hard  
15 for us to agree ever to not be able to email with him, because  
16 I have had that before and it made it very difficult in cases.

17 THE COURT: I think that there are certain -- well, I  
18 don't know exactly how it was done in the other case that I  
19 had. And, Mr. Krouse, it was the Ng case. I don't remember  
20 what sort of access he had to a computer, but there may be ways  
21 to limit sort of approved emails and the like which would  
22 include counsel.

23 MR. KLEIN: OK. I just want to make sure. I mean,  
24 our concern is being able to communicate and work on his  
25 defense with him.

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1 THE COURT: Yes.

2 MR. KROUSE: Your Honor, you mentioned strict  
3 monitoring. We would ask for home confinement while in  
4 Alabama.

5 THE COURT: Let me hear from Mr. Klein. Yes.

6 MR. KLEIN: I think home confinement is unnecessary,  
7 your Honor. I mean, he is in Tuscaloosa at his parents' house.  
8 He is going to be electronically monitored. There is, from  
9 what Mr. Griffith, his father, is saying, there is a regional  
10 airport there. If he cut his bracelet, which he is not going  
11 to do, that activates an alarm. Whether he does it at home  
12 or -- you know, they are going to be monitoring. Maybe he  
13 stays within the confines of the Tuscaloosa region or  
14 something, but home confinement is really restrictive and I  
15 think it is unnecessary at this juncture.

16 THE COURT: Let me hear -- are you the Pretrial  
17 Services Officer?

18 OFFICER AHMED: Yes, your Honor.

19 THE COURT: Officer? I'm sorry.

20 OFFICER AHMED: Mohammed Ahmed.

21 THE COURT: OK.

22 OFFICER AHMED: Your Honor, may I approach the bench?

23 THE COURT: Yes.

24 (Discussion off the record at the sidebar between the  
25 Court and Officer Ahmed)



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1 THE COURT: I just need to make sure what I'm actually  
2 ordering is something that we can actually do. I am just going  
3 to take a few seconds to speak to the Pretrial Services Officer  
4 to make sure I have the language correct.

5 With regard to -- I think, yes, you should be able to  
6 communicate with your client via email. I think, though, his  
7 access electronically and the computer should be limited. And,  
8 again, I'll speak with the Pretrial Services Officer. So, I  
9 will be right back.

10 (Discussion off the record in the robing room between  
11 the Court and Officer Ahmed)

12 THE COURT: You can be seated.

13 All right. So I think I have some of the language  
14 down, and some of the things, the parties have some additional  
15 work to do.

16 So it is going to be a million-dollar bond secured by  
17 the parents -- Mr. Griffith's parents' and his sister's home.  
18 There will be strict Pretrial supervision, which will require,  
19 Mr. Griffith, at least two in-face visits with the Pretrial  
20 Services Officer down in the Northern District of Alabama, as  
21 well as other restrictions.

22 The limitation on computer access, my understanding is  
23 that Pretrial's ability is very limited. It is sort of -- it  
24 would be software that basically shows where someone has  
25 visited, so it's basically not realtime. So I will leave it

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1 to -- I would ask the government, in conjunction with the FBI,  
2 to figure out what exactly can be done to either limit the  
3 access -- I mean, obviously, the most critical thing is that  
4 Mr. Griffith be able to communicate with his lawyers via email.  
5 I don't know what the computer situation is at the home, but he  
6 should be obviously restricted from accessing any of his  
7 cryptocurrency accounts, to the extent he is able to do that  
8 over the Internet. There should be a restriction on accessing  
9 the -- and I don't know exactly what this means, but the Dark  
10 Web also in connection with that. But I ask the parties to  
11 meet and confer about that to see what is actually feasible.

12 Again, Mr. Krouse, I don't know exactly what was done  
13 in the Ng case, but I know that there was monitoring that was  
14 done there and the defendant had limited access to a computer  
15 in that circumstance.

16 MR. KROUSE: Yes, your Honor. I would think that is  
17 wholly appropriate here.

18 The concern is that using VPNs and anonymizing  
19 software, which Mr. Griffith is very familiar with, it is close  
20 to impossible to monitor his computer access.

21 I would say that as part of his bail conditions, he  
22 should just be blanketly restricted from accessing any  
23 computer, including emails from his counsel. Counsel can  
24 communicate with him by phone. They can send him stuff by  
25 mail. But there isn't some overriding reason why he needs to

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1 communicate by email with his counsel. So I think the blanket  
2 prohibition on any access to any computer, any cell phone that  
3 has computer access or Internet access is appropriate here in  
4 light of the concerns.

5 THE COURT: OK. I mean, I'm not going to -- again,  
6 while I understand the concern, I will limit his access to a  
7 computer, but I will allow him to communicate with his counsel.

8 So what I would suggest is the following -- and it may  
9 be a limitation that has to be on the household itself, I don't  
10 know, and I understand the concern there, but I have to  
11 juxtapose that against Mr. Griffith's Sixth Amendment right and  
12 his ability to communicate with counsel and review documents  
13 that are sent by the government sort of realtime, as opposed to  
14 having to wait for it to be mailed to him.

15 MR. KROUSE: It can be overnighted, your Honor. I  
16 mean, there isn't, I don't believe, a Sixth Amendment right to  
17 receive email from counsel.

18 THE COURT: Again --

19 MR. KROUSE: The documents can be overnighted. I  
20 mean, it is routinely done that people can get access to  
21 physical documents in an extremely quick manner. So to carve  
22 out email with counsel, I think it is already very challenging  
23 from a logistical standpoint to address the concern that your  
24 Honor is rightfully finding with the defendant using the  
25 Internet. There isn't any reason to carve out emails with

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1 counsel. Mr. Klein just stated that in a previous case of his  
2 a court did impose that limitation and required him not to have  
3 access to email with his counsel.

4 So I don't see that as being a particularly compelling  
5 concern personally. I think things can be overnighted. He can  
6 literally have them the next day and can talk over the phone  
7 with his counsel, if that's the issue.

8 THE COURT: OK. But I'm not in the same place that  
9 you are, so I'm going to allow him to communicate with counsel  
10 via email.

11 With regard to -- the defendant is to surrender his  
12 travel documents. And, again, do you know where the passport  
13 is?

14 MR. KLEIN: It was given to Pretrial in LA. They  
15 said, I believe, they were going to email to Pretrial here so  
16 it must be in transit. Pretrial can coordinate among  
17 themselves.

18 THE COURT: OK. And I think that would include the  
19 passport card. I know that is going to create certain issues  
20 because that may be the only identification -- well, does your  
21 client have a driver's license?

22 MR. KLEIN: No, your Honor. The passport ID was his  
23 ID, and so that was why -- Pretrial gave it to us in LA, your  
24 Honor, to hold because it was his only ID. I don't believe  
25 that allows -- the passport ID allows for international travel,

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1 but I haven't looked at it.

2 MR. KROUSE: He can go to Mexico or Canada with the  
3 passport ID. He would definitely, in the government's view,  
4 need to surrender his passport ID.

5 MR. KLEIN: Again, we think he should be allowed to  
6 have it, but if your Honor ordered, we can give it to Pretrial  
7 and they can have it in Alabama.

8 THE COURT: And then he only is allowed access to it  
9 when he is going to be traveling to New York for court  
10 appearances or to visit with his lawyers?

11 MR. KLEIN: Yes, your Honor.

12 THE COURT: From Pretrial's perspective?

13 OFFICER AHMED: We would recommend that he surrender  
14 the document and find either state-issued documents or  
15 city-issued documents.

16 THE COURT: Why don't we do this? The document will  
17 be surrendered to Pretrial. If it turns out, Mr. Klein, that  
18 Mr. Griffith -- and I'll allow -- so it will be home detention  
19 with GPS monitoring. I will allow, though, as part of home  
20 detention, after communicating with Pretrial -- I think he is  
21 going to need personally to go and get the state-issued ID.

22 OFFICER AHMED: Right. I believe those things can be  
23 obtained through other documents such as a birth certificate,  
24 school records, things of that nature.

25 THE COURT: All right.

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1           So travel will be limited to the Southern and Eastern  
2     District of New York, because, as the Pretrial Services Officer  
3     points out, the airports here are in the Eastern District of  
4     New York, and the Northern District of Alabama. And travel up  
5     here is limited to for court visits and to have attorney  
6     visits.

7           Mental health treatment and evaluation as directed by  
8     Pretrial. Drug testing and treatment as directed by Pretrial.  
9     As I said, home detention with GPS monitoring.

10          He is to reside with his parents, and he is not to  
11     relocate without prior approval of Pretrial Services.

12          In connection with that, Dr. Griffith, they are going  
13     to need to do a home assessment of your home, and that just  
14     means that someone is going to visit. So, you know, once the  
15     order is issued, the Pretrial Services Officer will communicate  
16     with you and it will be somebody probably from Alabama; the  
17     Alabama Pretrial Services will come to your home to visit.

18          Mr. Griffith, you are to avoid contact -- and, again,  
19     I don't know if there are any -- with any victims and/or  
20     witnesses here.

21          And, obviously, Mr. Krouse with regard to the  
22     witnesses, you may need to communicate with defense counsel so  
23     they have an understanding of people who aren't necessarily  
24     obvious from the complaint.

25          MR. KROUSE: Yes, your Honor.

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1 THE COURT: Yes.

2 MR. KLEIN: Your Honor, we would request a list. It  
3 isn't obvious from the complaint who that would be, and he has  
4 lots of friends, you know, who he may communicate with. We  
5 just want the government to provide us a list of people.

6 THE COURT: I guess, Mr. Krouse, it is sort of half a  
7 dozen/one, right? So it is up to you. You either provide the  
8 list -- and I know it is in advance of when you would  
9 necessarily provide a list of witnesses, or to decide not to,  
10 but then, you know, I think the victims, I think it may be that  
11 the defendant doesn't necessarily know who the witnesses are.  
12 So, I will leave it up to the government to figure out.

13 MR. KROUSE: Yes, your Honor. We'll consider it. We  
14 may not give a list, and then, of course, any witness tampering  
15 or obstruction of justice are separate crimes and so we can  
16 address it in that way.

17 THE COURT: Yes. Obviously, I'm not in any way  
18 limiting whatever defense counsel believes they can do,  
19 consistent with their representation of Mr. Griffith and  
20 consistent with the law. So I am not saying you can't, you  
21 know, do your own research, speak to folks if you want to speak  
22 to folks, or try to speak to folks, I should say. That is not  
23 a limitation I am placing on him.

24 OK. So those are the conditions. As I mentioned, the  
25 conditions that need to be met are the bond conditions,

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1 including getting the paperwork for securing the homes, but not  
2 the -- oh, I'm sorry. Obviously, I mentioned the securing of  
3 the cryptocurrency accounts and/or hard drives, and I will  
4 leave that up to the government and the Bureau to figure out  
5 how to do that consistent with whatever the laws are in  
6 Singapore and consistent with the government's concern about  
7 preserving evidence and tampering with evidence.

8 Yes, Mr. Klein.

9 MR. KLEIN: Your Honor, just to be clear, the  
10 million-dollar bond is what needs to be fulfilled for him to be  
11 released; cryptocurrency we will deal with separately?

12 THE COURT: That is correct.

13 MR. KLEIN: OK.

14 THE COURT: But the bond is connected to the house.  
15 The cryptocurrency and the like I think might take longer and I  
16 understand that. But it is with the caveat, as I said, anyone  
17 who has access to the apartment, Mr. Klein, you should do your  
18 best to put on notice that they shouldn't be touching that  
19 stuff.

20 OK. Yes?

21 OFFICER AHMED: Your Honor, we're also requesting that  
22 the home assessment be completed prior to release.

23 THE COURT: Yes, and the home assessment. I don't  
24 anticipate that should be an issue, Mr. Klein. If it ends up  
25 being an issue, just let me know, but I think the home



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1 assessment. That's just so that -- that typically is what  
2 happens so that they sign off on the location.

3 MR. KLEIN: Yes, I am familiar with that, your Honor.

4 THE COURT: OK. All right.

5 Is there anything else I need to deal with?

6 MR. KROUSE: No, your Honor. Thank you.

7 THE COURT: OK.

8 MR. KLEIN: No, your Honor. Happy new year.

9 THE COURT: And what I should say is the following.  
10 Obviously, this is not my case, or at least I don't know  
11 whether it is going to be my case. But, you know, if there are  
12 applications, obviously those applications can be made to the  
13 district court judge, whoever gets it. To the extent there are  
14 applications within the ruling that I made today, you know, and  
15 the case is still on a complaint, I can deal with those until  
16 such time as the case gets indicted, even when I'm no longer on  
17 Part I. I will put it that way. OK? I mean, it just makes  
18 sense because I already am familiar with the case.

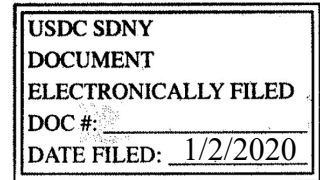
19 MR. KROUSE: Yes, your Honor. That is fine with the  
20 government.

21 MR. KLEIN: Yes, your Honor. That works for the  
22 defense.

23 THE COURT: Thank you very much. We'll stand  
24 adjourned.

25 (Adjourned)

# Exhibit B



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
	:	
UNITED STATES OF AMERICA,	:	19 Mag. 10987
	:	
-v-	:	<u>ORDER</u>
	:	
VIRGIL GRIFFITH,	:	
Defendant.	:	
	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

Before me is the Defendant's appeal of the denial of his bail application by Magistrate Judge Barbara Moses on December 26, 2019. I heard the appeal on December 30, 2019.

Accordingly, it is hereby:

ORDERED that the Clerk of Court is directed to unseal this case and enter all documents in connection with this Complaint on the electronic docket.

IT IS FURTHER ORDERED that for the reasons stated on the record on December 30, the Defendant's appeal is GRANTED. I set forth below the entirety of Defendant's bail conditions:

1. A \$1 million personal recognizance bond, secured by  
(1) the residence of the Defendant's parents, Dr. Robert Griffith and Dr. Susan Griffith, located at 10885 Landers Drive, Northport, AL 35473; and (2) the residence of Defendant's sister, Joy Lewis, located at

7112 Black Rock Court, Columbia, MD 21046. Dr. Robert Griffith, Dr. Susan Griffith, and Joy Lewis are to assist the Government in obtaining documents it deems necessary to make these properties security for the bond. The bond shall not be considered secured until such time as the property has been assessed by the Government and has been made security for the bond. Defendant shall not be released until the conditions set forth in the paragraph are met;

2. Strict Pretrial Supervision;
3. Home detention with electronic and GPS monitoring at Defendants' parents' residence, located at 10885 Landers Drive, Northport, AL 35473 ("the Residence");
4. Home assessment of the Residence. Defendant shall not be released until the conditions set forth in the paragraph are met;
5. Defense counsel and the Government are to meet and confer about securing the cryptocurrency hard drives located at the Defendant's apartment in Singapore, subject to the laws of Singapore. Defendant is to ensure that all individuals who have access to his apartment in Singapore are aware that these drives are not to be accessed, touched, or tampered with in any

way until they are secured based upon the agreement between defense counsel and the Government.

6. Defendant is to participate in mental health treatment and evaluation as directed by Pretrial Services;
7. Defendant is to participate in drug treatment and testing as directed by Pretrial Services;
8. Defendant's travel is restricted to the Northern District of Alabama, the Southern District of New York ("SDNY"), and the Eastern District of New York ("EDNY" and together with SDNY, the "New York Districts").

Further, Defendant shall only be permitted to travel to the New York Districts to (a) appear at the Thurgood Marshall United States Courthouse at 40 Centre Street, New York, New York and the Daniel Patrick Moynihan United States Courthouse at 500 Pearl Street, New York, New York for court appearances or as directed by his Pretrial Services Officer; or (b) meet with his counsel, Brian Klein, of Baker Marquart LLP and/or Sean Buckley of Kobre & Kim, and/or any other representatives of the aforementioned firms, at the New York office of Kobre & Kim located at 800 Third Ave., New York, New York 10022. Defendant shall provide notice to and obtain approval from Pretrial Services for all such travel. To the extent the

Government deems it necessary, in connection with all visits to and from the New York Districts, Defendant shall be accompanied to the airport by an agent of the Federal Bureau of Investigation or other investigative agency designated by the Government, who shall ensure that he boards his flight;

9. Within the Northern District of Alabama, Defendant shall be permitted to leave the Residence for all purposes ordinarily permitted for a person in home detention, as well as to obtain state- or municipality-issued identification documents.

Defendant shall provide notice to and obtain approval from Pretrial Services for all such departures from the Residence;

10. Defendant is to surrender all of his travel documents to Pretrial Services, including his Passport ID Card. Upon release, and in accordance with Condition No. 9, Defendant is to commence efforts to obtain a state- or municipality-issued identification card that will enable him to travel by air. Until Defendant obtains an alternate form of identification, Pretrial Services will facilitate his travel to the New York Districts for the purposes authorized in Condition No. 8 by providing Defendant with his Passport ID Card no more


than one day prior to his flight, which he will surrender to Pretrial Services upon his initial arrival in the SDNY, and retrieve his Passport ID Card from Pretrial Services for his trip back to Alabama. Defendant shall within a day of returning to the Northern District of Alabama return his Passport ID Card to Pretrial Services in the Northern District of Alabama.

11. Defendant is not to relocate from the Residence without prior approval of Pretrial Services;
12. Defendant shall not possess or use any smartphone or any cellular telephone with internet access capability;
13. Defendant will be allowed to have a computer in the Residence, which will be loaded with a monitoring software. Defendant is not to use any computer or other internet-capable device that does not contain such software;
14. Defendant's internet activity will be limited to communicating with his counsel by e-mail. Defendant is not to access the internet for any other purposes, and is specifically prohibited from accessing any of his cryptocurrency accounts and from accessing the darkweb;

15. Defendant is not to communicate with or contact any of the witnesses and victims set forth in a list to be provided by the Government.

SO ORDERED.

Dated: New York, New York  
January 2, 2020

  
Vernon S. Broderick  
United States District Judge PART I